

LAND PURCHASE ACTS.

RULES

ISSUED BY

THE IRISH LAND COMMISSION,

17TH DAY OF MAY, 1901;

AND

DIRECTIONS AS TO THE PREPARATION, SETTLEMENT, AND VOUCHING OF FINAL SCHEDULES OF INCUMBRANCES.

Presented to Parliament by Command of His Majesty



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IRISH LAND COMMISSION.

RULES under the Land Purchase Acts supplemental to and amending the Rules dated 16th March, 1897, 29th April, 1899, and 19th March, 1900.

Friday, the 17th of May, 1901

It is this day ordered that the following General Rules and Orders shall, from and after this date, and until further order, take effect and be in force in the Irish Land Commission in relation to proceedings under and in pursuance of the Land Purchase Acts as defined by the Land Law (Ireland) Act, 1896.

ORDER I.

INSPECTION OF HOLDING.

Rule 1 of Order XIV. of the Rules dated 16th March, 1897, shall be amended by adding thereto the following proviso, viz. :—

Provided that if the Commissioner be otherwise satisfied as to the security for the advance, and that the purchaser is in exclusive occupation of the holding, he may either dispense with the inspection, or limit the reference as he shall think fit.

ORDER II.

APPORTIONMENT AND REDEMPTION OF SUPERIOR INTERESTS.

1. Where the application for the apportionment of impropriate tithe-rentcharges, quit or Crown rents, rents, fees, duties, services, rentcharges, or annuities, is grounded on a consent or consents embodying the information necessary for making up the order, the Commissioner, if satisfied that the consent or consents have been signed by or on behalf of all necessary parties, may, if he think fit, dispense with the lodgment of a statement of facts, and may thereupon make a final order for apportionment in the terms of such consent or consents.

Statement of facts may be dispensed with

2. Applications for orders for the redemption of all superior interests affecting the land sold shall, if possible, be made at the hearing of the final schedule of incumbrances.

Application for redemption to be made at hearing of final schedule of incumbrances.

ORDER III.

ALLOCATION.

Proceeds of Sales by Vendors to Tenants not paid into the High Court.

Final schedule of incumbrances.

1. As soon as the registry of deeds and judgment searches shall have been made, and all acts appearing on them explained, a draft final schedule of incumbrances shall, unless dispensed with as hereinafter provided, be brought in by the vendor or his solicitor for settlement by the Examiner. Such schedule shall show all charges which, having regard to the abstract of title, the result of the searches or otherwise, shall appear to affect the lands, or to be a lien upon or payable out of the purchase money, and shall be prepared in accordance with directions to be issued by the Judicial Commissioner.

Judicial Commissioner to rule schedule of incumbrances and allocate.

2. The schedule of incumbrances, when settled, shall be listed for hearing before the Judicial Commissioner in Court, and all subsequent proceedings in relation to the allocation of the fund shall be conducted before him.

Schedule of incumbrances dispensed with in certain cases.

3. Subject to any direction that may be given by the Judicial Commissioner the lodgment of a schedule of incumbrances shall be dispensed with where the Examiner shall certify such schedule to be unnecessary.

Final notice to claimants

Contemporaneously with the filing of the schedule of incumbrances a final notice to claimants shall be prepared by the vendor or his solicitor and settled by the Examiner; it shall follow a form to be prescribed by the Judicial Commissioner, with such additions as the nature of the case may require, and shall be in every case served on the following classes of person unless otherwise directed:—

- a. All persons named as claimants on the schedule.
- b. All persons who have lodged deeds subject to lien.
- c. All persons who have entered general appearances in the matter, or special appearances requiring notice of the lodgment of the schedule.

It shall also be served on such other persons and shall be published in such manner as may be directed.

Objections to schedule of incumbrances.

5. Any person may file an objection to the schedule of incumbrances within the time specified in the notice, which objection shall state the facts and documents relied on in support thereof, and shall be verified by the affidavit of the objector, or, if the Judicial Commissioner allows, of his solicitor, or, in special cases, of such person as may be allowed. Notice of every objection must be served at the time of the filing thereof on the vendor or his solicitor, and on the persons affected thereby; and on the hearing of the schedule such objections shall be heard and disposed of.

6. Not less than two days before the day appointed for the hearing of the schedule, the vender or his solicitor shall attend at the Examiner's office for the purpose of vouching the services and publications of the final notice to claimants, and shall produce a certificate of any objections filed, and the receipt of the Keeper of Records for the lodgment of registry of deeds and judgment searches made in the matter.

Vouching
services of
final notice
to claimants.

7. The rulings of the Judicial Commissioner made on the hearing of the schedule of incumbrances may be entered on the schedule in a column reserved for that purpose, but the Judicial Commissioner shall, at the instance of any party interested, cause to be prepared an order in conformity with any such ruling, which shall be entered in the "Order Book." The schedule so ruled shall not be taken out of the Office without permission of a Commissioner.

Rulings on
schedule of
incumbrances

8. Rule 1 of Order XXI. of the Rules, dated 16th March, 1897, relating to the preparation of allocation schedules, shall apply only to cases in which the lodgment of a final schedule of incumbrances is dispensed with.

ORDER IV.

ABSTRACT OF TITLE.

So much of the Directions as the preparation of Abstracts of Title in the Appendix to the Rules dated 16th March, 1897, as provides that an extract from the patent under which the lands are held shall be given is hereby rescinded.

ORDER V.

COSTS.

The costs of any proceeding under these Rules to which the schedule of fees in the Appendix to the Rules dated 16th March, 1897, is not applicable shall be taxed according to the schedule of fees now in force in relation to the same or analogous proceedings before the Land Judges.

(Signed),

R. E. MEREDITH.
S. J. LYNCH.
FREDK. S. WRENCH.
GERALD FITZGERALD.

Seal of the
Irish Land
Commission.

IRISH LAND COMMISSION.

LAND PURCHASE ACTS.

DIRECTIONS as to the PREPARATION, SETTLEMENT and VOUCHING
of FINAL SCHEDULES of INCUMBRANCES.

16th day of January, 1901.

1. When bringing in the draft final Schedule of Incumbrances for settlement the Solicitor should produce—

- (a.) The Rulings on Title.
- (b.) The Draft Requisition for Searches as settled.
- (c.) The Registry of Deeds and Judgment Searches.
- (d.) Certificates from the Quit Rent Office and Land Commission, and the Board of Public Works, specifying respectively the Quit or Crown Rents, Tithe-rentcharges, or Tithe annuities, and Land Improvement or Drainage charges affecting the lands.
- (e.) A certificate as to whether Deeds have been lodged subject to lien.
- (f.) Office copies of any orders that may have been made for apportionment or redemption of superior interests as defined by Section 31 of the Land Law (Ireland) Act, 1896.
- (g.) A certificate of the appearances entered in the matter.

2. The Schedule shall be on writing large post paper, with parchment back, and shall be in form A. It shall, unless the Judge otherwise directs, be settled as regards all the lands comprised in the originating statement, except such as are therein stated to be excluded from the proceedings.

3. The Schedule shall show all charges which, having regard to the abstract of title, and the result of the searches, shall appear to affect the lands, or to be a lien upon or payable out of the purchase-money; and the charges shall be placed in such order of priority as may appear to be in conformity with the *prima facie* rights of the parties; and shall also show, as nearly as can be ascertained, the sums due for principal, and such Schedule shall also state the name or names of the person or persons who may be entitled to the surplus fund after payment of charges.

4. Charges in equal priority should receive the same number and a distinguishing letter, and there should be a statement at the foot that they are in equal priority.

5. The name, description, and address of every party entitled to any charge should be accurately stated, and the date of registration, parties' names, and short description of the instrument by which it is created; if it is founded upon a judgment, the sum recovered, the year, and term, and Court, and the names of the parties to the judgment should be stated. When the claimant is not the original mortgagee, the devolution should be concisely but accurately stated as far as practicable.

6. Superior interests affecting the lands (except rent-charges or annuities in the nature of incumbrances) should usually appear in priority to all incumbrances and to the costs of the proceedings.

7. Annual charges, such as Quit Rents, Tithe-rentcharges, Head Rents, Board of Works charges and annuities, should be described as such; but when an order for their apportionment or redemption has been made, a note of it should be inserted in the column, "Particulars of Demand"; and if the price has been fixed, it should be inserted in the "Principal" column; and, unless each of such charges affects all the lands, the denominations which each affects should be stated.

8. Costs awarded by order to any party against the fund, and costs of lodging deeds pursuant to notice or order, should appear as distinct items on the Schedule; but costs awarded to any claimant as payable with his demand, and the costs of the proof of any claim on the Schedule, and the arrears of any rent, rentcharge, or annuity, should not appear as distinct items, but be inserted in the proper columns opposite the particulars of the demand.

9. When the vendor is a tenant for life, there should be set out, after the demand of the trustees of the settlement for the residue, any charges upon the life estate, describing them as such.

10. If different portions of the estate are subject to different incumbrances, the Schedule should be prepared in parts; but if there be common incumbrances as well, they should be set out *in extenso* and vouched in one part only, and briefly referred to in the other parts.

11. The Examiner shall endorse in the fold of the Schedule any special directions as to the form, service, or publication of the Final Notice to Claimants.

12. Four clear weeks from the date of the last service or publication should usually be allowed for filing objections to the Schedule, but the time may be curtailed where the title to the several charges has been shown, and no question as to the priority or validity of any charge is likely to arise, or where all the claimants have appeared by solicitor; provided that in no case shall less than 10 days be allowed for filing objections, except by order of the Judicial Commissioner.

13. Publication of the final notice to claimants may be dispensed with by leave of the Judicial Commissioner where the title to the lands sold is registered under the Local Registration of Title (Ireland) Act, 1891, or in other proper cases where the general notice to claimants would appear to have given sufficient publicity to the proceedings.

14. When the final schedule of incumbrances is being vouched, the vendor's solicitor shall lodge with the Examiner a memorandum stating:—

- (a.) The particulars of the funds standing to the credit of the matter, distinguishing between cash and guaranteed land stock or other securities, and between money or securities retained as guarantee deposits or for any other purpose, or standing to a separate credit, and such as may be standing to the general credit of the matter:

- (b.) If any claim on the schedule of incumbrances affects particular denominations only, how much of the fund represents the proceeds of the sale of such denominations, and whether the entire has been sold or not, in so far as such information may be necessary for the allocation :
- (c.) The order asked for in respect of each claim :
- (d.) The order asked for concerning the rights of the parties as regards any guarantee deposit registered in the title of the matter, or whether it is desirable for any reason that the making of such order should be postponed.

15. Where any claimant whose name appears on the schedule of incumbrances desires to waive his claim or priority, either wholly or in part, he shall, unless the Judge shall otherwise direct, lodge a consent in writing signed by himself and verified, or signed by a solicitor who has appeared for him, provided such solicitor shall not also represent the vendor or any person whose interest might be hostile to that of the claimant.

(Signed), R. E. MEREDITH.

FORMS.

FORM A.

FINAL SCHEDULE OF INCUMBRANCES.

COURT OF THE IRISH LAND COMMISSION.

LAND PURCHASE ACTS.

Record No.

In the Matter of the Estate of A.B., a Vendor of Land.
Schedule of Incumbrances and all claims on foot of Incumbrances affecting the Lands the subject of the Originating Statement filed the day of 190 .

Lodged the day of 190 .

N.B.—Not more than three distinct charges should be inserted on any one page, nor should the statement of a charge be commenced at the foot of a page and carried over.

| No. | Date | Name, Addition and Residence of Claimant. | Particulars of Demand. | Principal. | Rate per cent. | Interest to the day of 19 . | Costs. | Total due for Principal, Interest, and Costs. | Direction issued to Accountant. | Rulings of Judge. |
|-----|------|---|------------------------|------------|----------------|-----------------------------|---------|---|---------------------------------|-------------------|
| | | | | £ s. d. | | £ s. d. | £ s. d. | £ s. d. | | |

FORM B.

FINAL NOTICE TO CLAIMANTS AND INCUMBRANCERS.

COURT OF THE IRISH LAND COMMISSION.

LAND PURCHASE ACTS.

Record No.

In the Matter of the Estate of A.B., a Vendor of Land.

Take Notice that the Final Schedule of Incumbrances affecting (here describe the lands as they appear in the Originating Statement, omitting the acreage in the case of entire townlands) [parts of] which have been sold [and the residue of which it is contemplated selling] under the above Acts in fee simple freed and discharged from all superior interests as defined by Section 31 of the Land Law (Ireland) Act, 1896, and from all other charges and incumbrances, has been lodged in my Office at 24 Upper Merrion-street, Dublin; and any person having any claim not therein inserted, or objecting thereto, either on account of the amount or the priority of any charge therein reported as due to him or to any other person (*here insert any special matter*), or for any other reason, is required to lodge an objection thereto, stating the particulars of his demand and duly verified, with the Registrar of this Court, on or before the day of 190 , and to appear on the following day, the day of 190 , at o'clock, before the Judicial Commissioner, at his Court at the Four Courts, Dublin, when he will adjudicate upon the several claims appearing on the Schedule, and upon any objections lodged thereto. And further Take Notice that any demand reported by such Schedule is liable to be objected to within the time aforesaid.

Dated this day of 190 .

Solicitor for the Vendor.

Examiner.

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